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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,074	03/06/2002	Stephen Paul Maginas		8494

7590
Stephen P. Maginas
3404 25th Street
Rock Island, IL 61201

01/16/2004

EXAMINER

WOO, STELLA L

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 01/16/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,074

Applicant(s)

MAGINAS, STEPHEN PAUL

Examiner

Stella L. Woo

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. See page 4, line 25; page 5, line 2; page 11, line 1; page 16, lines 6-7. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Clapper (US 2002/0080941 A1).

Regarding claim 1, Clapper discloses a communication apparatus (message card 100) comprising:

a substrate (card surface);

machine readable data (card includes a magnetic stripe or a semi-conductor memory device including one or more programmed messages and a programmed destination specifier such as a phone number; paragraphs 33 and 34); and

human readable data (the message or messages can be printed on the face of the card; paragraph 36).

Regarding claim 6, the calling phone is reconfigured by the message card in that certain features of the calling phone are disabled (paragraph 32) and a programmed destination phone is dialed (paragraph 34).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 7-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clapper in view of Kim (US 6,269,158 B1).

Clapper differs from claims 2-5, 7-9 in that it does not specify including directions for use. However, Kim teaches the desirability of including printed instructions for use on a phone card (see Figure 2-D; col. 4, lines 10-13) such that it would have been obvious to an artisan of ordinary skill to incorporate such printed instructions, as taught by Kim, upon the message card

Art Unit: 2643

of Clapper so that a user can be informed as to how to send a stored message using the message card.

Regarding claim 10, caller ID information can be transmitted (paragraph 30).

Regarding claims 11-13, 15-19, Clapper allows the user to customize the data being stored in the database as well as in the message card (paragraphs 26 through 36).

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clapper in view of Kim, as applied to claim 13 above, and further in view of Berger et al. (US 6,112,986, hereinafter "Berger").

The combination of Clapper and Kim differs from claim 14 in that it does not specify the message card as being pierced. However, Berger teaches that it is well known to include a hole on a message-bearing card in order to receive a chain for suspending the card in a secure fashion (col. 7, lines 32-45) such that it would have been obvious to an artisan of ordinary skill to incorporate a hole, as taught by Berger, within the message card of Clapper and Kim in order to physically secure the card.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weiss and Sato show other systems which use cards to transmit messages. Yacoob shows a smart card which stores warranty/insurance information.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

Art Unit: 2643

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Stella L. Woo
Primary Examiner
Art Unit 2643